

CHAPTER 1
DESCRIPTION OF ORGANIZATION AND
PROCEDURES BEFORE THE DIVISION

[Prior to 9/24/86, Labor, Bureau of[530]]

[Prior to 12/2/98, see 347—Ch 1]

DIVISION I
ADMINISTRATION

875—1.1(91) Definitions. The definitions of terms in Iowa Code section 17A.2 shall apply to these terms as they are used throughout this chapter. In addition, as used in this chapter:

“*Commissioner*” means the labor commissioner of the division of labor services or designee.

“*Division*” means the division of labor services of the department of workforce development.

875—1.2(91) Scope and application. This chapter describes the organization of the division, the laws it enforces, and the methods by which and location where the public may obtain information or make submissions or requests.

875—1.3(91) Department of workforce development, division of labor services. The division is the office of the commissioner and consists of the commissioner and those employees who discharge the duties and responsibilities imposed upon the commissioner by the laws of this state. The commissioner has control, supervision and authority to enforce the following chapters and sections of the Iowa Code: section 30.7, Iowa Emergency Response Commission, Duties to be Allocated to Department of Workforce Development; section 85.68, Workers’ Compensation Division, Actions—Collection of Payments—Subrogation; chapter 88, Occupational Safety and Health; chapter 88A, Safety Inspection of Amusement Rides; chapter 88B, Removal and Encapsulation of Asbestos; chapter 89, Boilers and Unfired Steam Pressure Vessels; chapter 89A, State Elevator Code; chapter 89B, Hazardous Chemicals Risks—Right to Know; chapter 90A, Boxing and Wrestling; chapter 91, Division of Labor Services; chapter 91A, Wage Payment Collection; chapter 91C, Registration of Construction Contractors; chapter 91D, Minimum Wage; chapter 91E, Non-English Speaking Employees; chapter 92, Child Labor; chapter 94, State Free Employment Service and Employment Agencies; and chapter 95, License for Employment Agencies. The division consists of four bureaus: Occupational Safety and Health Enforcement Bureau (enforces occupational safety and health rules in workplaces through inspections based on accidents, complaints, and programmed inspections); Occupational Safety and Health Consultation and Education Bureau (conducts occupational safety and health inspections at the request of an employer and conducts educational programming); Inspections and Reporting Bureau (conducts amusement ride, elevator and boiler inspection and maintains statistical information on the worker’s illnesses and injuries and the division’s inspection activities); and Employee Protection Bureau (responsible for child labor, wage payment and collection, minimum wage, employment agency licensing, workplace standards, asbestos removal and encapsulation contractor permits and licensing of professions engaged in removal and encapsulation, community and emergency response right to know, EPCRA, out-of-state construction contractor bonding, construction contractor registration, non-English speaking employee’s rights, and death assessment collection). The licensing and supervision of professional boxing and wrestling are the responsibility of the commissioner. Information may be obtained and submissions or requests may be made by contacting the Department of Workforce Development, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The telephone number is (515)281-3606. All correspondence and payment of fees and costs relating to the division shall be submitted directly to the division.

875—1.4(17A) Contested case hearings. Rescinded 12/2/98, effective 1/6/99.

DIVISION II
PETITIONS FOR RULE MAKING

875—1.5(17A) Form for petition. Any person or agency may file a petition for rule making with the division at the office of the division. A petition is deemed filed when it is received by the commissioner. The division will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DIVISION OF LABOR SERVICES

Petition by (Name of Petitioner)	:	
	:	
for the (adoption, amendment, or	:	PETITION FOR
	:	
repeal) of rules relating to	:	RULE MAKING
	:	
(state subject matter).	:	

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment of a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the division’s authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner’s arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by 875—1.8(17A).

The petition must be dated and signed by the petitioner or the petitioner’s representative. The petition must also include the name, mailing address, and telephone number of the petitioner or petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

The division may deny a petition because it does not substantially conform to the required form.

875—1.6(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The division may request a brief from the petitioner or from any other person concerning the substance of the petition.

875—1.7(17A) Inquiries. Inquiries concerning the status of a petition for a rule making may be made to deputy labor commissioner at the division.

875—1.8(17A) Division consideration. Within 14 days after the filing of a petition, the division will submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the division will schedule a brief and informal meeting between the petitioner and the commissioner or a member of the staff of the division, to discuss the petition. The division may request the petitioner to submit additional information or argument concerning the petition. The division may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the division by any person.

Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the division will, in writing, deny the petition, and notify the petitioner of the division's actions and the specific grounds for the denial, or grant the petition and notify the petitioner that it has instituted rule-making proceedings on the subject of the petition. The petitioner shall be deemed notified of the denial or grant of the petition on the date when the division mails or delivers the required notification to the petitioner. The denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the division's rejection of the petition.

875—1.9 and 1.10 Reserved.

DIVISION III
OPEN RECORDS AND FAIR INFORMATION PRACTICES

875—1.11(22,91) General provisions.

1.11(1) *Statement of policy.* These rules are intended to implement Iowa Code chapter 22. Division staff shall cooperate with members of the public and other agencies in implementing the provisions of these rules.

1.11(2) *Scope of rules.* Rules 875—1.11(22,91) to 875—1.23(22,91) do not:

- a.* Require the division to index or retrieve records which contain information about an individual by that person's name or other personal identifier.
- b.* Make available to the general public a record which would otherwise not be available to the general public under Iowa Code chapter 22.
- c.* Govern a record in the possession of the division which is governed by the rules of another agency.
- d.* Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
- e.* Make available records compiled by the division in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the general public or to any subject individual or party to the litigation or proceeding shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the division.
- f.* Apply to records which are not yet in existence.
- g.* Require the division to create, compile, or procure a record solely for the purpose of making it available.
- h.* Limit distribution of materials created or obtained by the division for the purpose of public distribution such as publications and lending materials.

1.11(3) Warranty. No warranty of the accuracy or completeness of any record is made.

1.11(4) Definitions.

“Agency” means any executive branch federal, state, or local governmental unit including, but not limited to, boards, commissions, departments and offices. Private employment agencies are not included.

“Confidential record” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the division is prohibited by law from making available for examination by members of the public. Also included are records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, by the lawful custodian, or by another person duly authorized to release the record. Inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Custodian” means the division or a person lawfully delegated authority to act for the division in implementing Iowa Code chapter 22.

“Division” means the division of labor services.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“Record” means the whole or a part of a division “public record” as defined in Iowa Code section 22.1.

“Record system” means any group of records under the control of the division from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

875—1.12(22,91) Request for access to records.

1.12(1) Location of record. A request for access to a record should be directed to the labor commissioner or the particular division office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to Division of Labor Services, 1000 E. Grand Avenue, Des Moines, Iowa 50319. If a request for access to a record is misdirected, division personnel will promptly forward the request to the appropriate person within the division.

1.12(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays.

1.12(3) Request for access. A request for access to open records shall identify the particular record sought by name or description in order to facilitate the location of the record. The custodian may require a request to be in writing. Written requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

1.12(4) Response to request. The response to a request for a single, open record shall generally be immediate. If the size or nature of the request requires time for compliance, the custodian shall comply with the request as soon as feasible. Examples of situations where a request may be delayed include, but are not limited to, the following:

- a. Searching for, collecting, and copying a voluminous amount of separate and distinct records included in a single request, especially if both confidential and open records are included.
- b. Retrieving a record from archival storage.

- c. Any of the purposes authorized by Iowa Code subsections 22.8(4) and 22.10(4).
- d. Specialized reproduction of records such as but not limited to videotapes and audiotapes.

The custodian may deny access to the record by a member of the public only on the grounds that a denial is warranted under Iowa Code subsections 22.8(4) and 22.10(4), or that the record is a confidential record, or that disclosure is prohibited by a court order. Access by a member of the public to a confidential record is limited by law and may generally be provided only in accordance with the provisions of rule 875—1.13(22,91) and other applicable provisions of law.

1.12(5) *Security of record.* No requester may, without permission from the custodian, search or remove any record, nor may a requester reorganize or damage division records. Examination and copying of division records shall be supervised by the custodian.

1.12(6) *Copying.* A reasonable number of copies of an open record may be made in the division's office. If appropriate equipment is not available in the division office where an open record is kept, the custodian shall permit its examination in that office and shall arrange for copies to be made. The division shall not copy materials where to do so may constitute a violation of law.

1.12(7) *Fees.*

a. *When charged.* The division may charge fees in connection with the examination or copying of records. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. *Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the division shall be available in division offices. Copies of records may be made for members of the public on division photocopy machines or from electronic storage systems at the posted cost. Actual costs of shipping may also be charged to the requester.

c. *Supervisory fee.* An hourly fee may be charged for actual division expenses in searching for and supervising the examination and copying of requested records if time required is in excess of 15 minutes. The fee shall be based upon the pay scale of the employee involved and other actual costs incurred. The custodian shall make available in division offices the hourly fees to be charged.

d. *Payment.*

(1) The custodian may require a requester to make an advance payment to cover all or part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require payment in full of any amount previously due and advance payment of the full amount of an estimated fee chargeable under this subrule before the custodian processes a new request from that requester.

875—1.13(22,91) *Access to confidential records.* Under Iowa Code section 22.7 or other applicable provisions of law, the custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of the confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 875—1.12(22,91).

1.13(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

1.13(2) *Requests.* The custodian may require a request to examine or copy a confidential record to be made in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

1.13(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases the record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent the delay is practicable and in the public interest, the custodian may give the subject a reasonable opportunity to seek an injunction under Iowa Code section 22.8 and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

1.13(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall provide notification, signed by the custodian, including:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A brief statement of the reasons for the denial.

1.13(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

875—1.14(22,91) Requests for treatment of a record as a confidential record and withholding from examination. The custodian may treat a record as a confidential record and withhold the record from examination and copying only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order.

1.14(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts the custodian is authorized to treat the record as confidential by Iowa Code section 22.7, another applicable provision of law, or a court order, may request the record be treated as a confidential record and be withheld from public inspection.

1.14(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and filed with the custodian. The request shall set forth the legal and factual basis justifying confidential treatment for the record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as a confidential record for a limited time period shall also specify the time period for which confidential treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the division by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

1.14(3) *Failure to request.* The custodian may treat a record as confidential even if no request has been received. However, if a person who has submitted business information to the division does not request that it be withheld from public inspection under Iowa Code section 22.7, the custodian of records containing that information may proceed as if that person has no objection to disclosure.

1.14(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record is filed or when the custodian receives a request for access to the record by a member of the public.

1.14(5) Request granted. If a request for such confidential record treatment is granted, a copy of the record from which the matter in question has been redacted or deleted will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian may make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record of the request.

1.14(6) Request denied. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, to the extent permitted by another applicable provision of law, or with the consent of the person requesting access. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record.

875—1.15(22,91) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may have a written statement of additions, dissents, or objections entered into a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of a record to alter the original copy or to expand the official record of any division proceeding. Written statements of additions, dissents, or objections shall be sent to the custodian or to the Labor Commissioner, 1000 E. Grand Avenue, Des Moines, Iowa 50319. Written statements of additions, dissents, or objections must be dated and signed and shall include the current address and telephone number of the requester or the requester's representative.

875—1.16(22,91) Consent to disclosure by the subject of a confidential record. A person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party to the extent permitted by law. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of counsel before the division on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the division to disclose records about that person to the person's attorney.

A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the division may to the extent permitted by law be treated as an authorization to release relevant information about the subject to the official.

875—1.17(22,91) Disclosure without the consent of the subject. Disclosure of a confidential record may occur without the consent of the subject to the extent allowed by law. Following are instances where the division may disclose records without consent of the subject and usually without notice:

1.17(1) For a routine use as described in rule 875—1.19(22,91) or in the notice for a particular record system.

1.17(2) To another agency for a civil, administrative, or criminal law enforcement activity.

1.17(3) To a requester who has provided the division with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that the record is transferred in a form that does not identify the subject.

1.17(4) To a requester pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

1.17(5) To the legislative fiscal bureau under Iowa Code section 2.52.

1.17(6) In response to a court order or subpoena.

1.17(7) Disclosures in the course of division employee disciplinary proceedings.

1.17(8) To the citizens' aide under Iowa Code section 2C.9(3).

875—1.18(22,91,77GA,ch1105) Availability of records.

1.18(1) General. Any division record or portion of a record is an open record unless it is a confidential record as listed at 1.18(2). Any division record may be confidential, either in whole or in part, depending on its contents, except the following:

a. State performance activity measures; directives adopted by IOSH; and citations issued and received pursuant to Iowa Code chapter 88.

b. Operating permits and certificates of insurance relating to amusement devices or rides, concession booths, or related electrical equipment covered by Iowa Code chapter 88A.

c. List of permitted asbestos removal and encapsulation companies and asbestos ten-day notifications pursuant to Iowa Code chapter 88B.

d. Certificates of inspection concerning objects covered by Iowa Code chapter 89.

e. List of owners of facilities regulated under Iowa Code chapter 89A and related permits and certificates of insurance.

f. List of registered professional boxers and bonds filed by fight promoters pursuant to Iowa Code chapter 90A.

g. Lists of formerly registered construction contractors; bonds and certificates of insurance filed by construction contractors pursuant to Iowa Code chapter 91C; and citations issued pursuant to Iowa Code chapter 91C.

h. Iowa child labor Form III collected pursuant to Iowa Code chapter 92.

i. List of private employment agencies licensed pursuant to Iowa Code chapter 95.

j. Lists of publications and educational materials available to the public; unaltered copies of documents published by the division; administrative rules; interstate agreements and interagency agreements to which the division is a party; purchase requests; records concerning the transfer of files to archives; and speech records.

1.18(2) Confidential records. With the exception of “f,” each of the following may contain personally identifiable information. Each of the following is confidential or partially confidential.

- a. Records or portions of records which are exempt from disclosure pursuant to Iowa Code section 22.7.
- b. Records or portions of records which are protected by Iowa Code section 88.1, 88.6, 88.12, 88.14, or 88.16.
- c. Records or portions of records containing social security numbers which are protected by 42 U.S.C. Section 405(c)(2)(C)(viii).
- d. Records or portions of records containing tax information which are protected by 26 U.S.C. Section 7213(a)(2) or Iowa Code section 422.20 or 422.72.
- e. Records or portions of records which are protected pursuant to Iowa Code section 515A.13.
- f. Pursuant to Iowa Code sections 17A.2 and 17A.3, those portions of division staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by division staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:
 - (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the division.
- g. Identifying details and trade secrets in final orders, decisions and opinions to the extent permitted by Iowa Code subsection 17A.3(1).
- h. Records or portions of records containing attorney work product or attorney-client communications, or which are otherwise privileged pursuant to Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), rules of evidence, case law, and the Code of Professional Responsibility.
- i. Minutes of closed meetings of a government body pursuant to Iowa Code section 21.5(4).
- j. Information protected by 42 U.S.C. 11044(a) or by Iowa Code sections 89B.12 and 89B.13.
- k. Records of the bureau of labor statistics which were created or obtained pursuant to federal grants if release of the records would cause the denial of federal funds.
- l. Information protected by 1998 Iowa Acts, chapter 1105.
- m. Any other information made confidential by law.

875—1.19(22,91) Routine uses. To the extent allowed by law, the following uses are considered routine uses of all division records:

1.19(1) Disclosure to government officers, employees, and agents who have a need for the record in the performance of their duties. The custodian of the record may upon request of any government officer, employee, or agent, or on the custodian’s own initiative, determine what constitutes legitimate need to use a confidential record.

1.19(2) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

875—1.20(22,91) Release to a subject.

1.20(1) The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 875—1.12(22,91). However, the division need not release the following records to the subject:

- a. The identity of a person providing information to the division need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. A record need not be disclosed to the subject when it is the work product of an attorney or is otherwise privileged.

c. A peace officer's investigative report may be withheld from the subject pursuant to Iowa Code section 22.7(5).

d. As otherwise authorized by law.

1.20(2) Where a record has multiple subjects with interest in the confidentiality of the record, the division may take reasonable steps to protect confidential information relating to another subject.

875—1.21(22,91) Notice to suppliers of information. Required notice to suppliers of information is provided by this rule and may be provided by any other appropriate means such as letters, brochures, formal agreements, contracts, forms, handbooks, manuals, or statements. This division may share information with persons outside the division for any routine use as described at rule 875—1.19(22,91) and for releases under Iowa Code chapter 22. Information obtained by the division will be used to enforce and implement those provisions of law delegated to the labor commissioner.

All information the division deems necessary and requests to administer Iowa Code chapters 30 and 88 through 95 is required. Failure to provide requested information may result in any combination of the following:

1. Inability to provide desired assistance or services.
2. The division's seeking or issuing a subpoena or warrant.
3. The division's proceeding as though the information does not exist or exists but is detrimental to the person from whom the information was requested.
4. Appropriate actions or sanctions pursuant to relevant law.
5. Referrals.

875—1.22(22,91) Data processing systems comparison. The first reports of injury data systems shared between the labor services division and the workers' compensation division of the workforce development department permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Pursuant to Iowa Code chapter 252J, personally identifiable information about asbestos licensees, asbestos permittees, amusement ride permittees, boxers, special inspectors, registered construction contractors, and private employment agency licensees found in data processing systems may be matched, collated, or compared with personally identifiable information in data processing systems maintained by the child support recovery unit of the department of human services. All data processing systems that have common data elements can potentially match, collate, and compare personally identifiable information.

875—1.23(22,91) Personally identifiable information. This rule describes the nature and extent of personally identifiable information collected, maintained, and retrieved from division record systems by personal identifier. Except as noted below, record systems are partially open and partially confidential. Except as noted below, information is stored on paper and electronically.

1.23(1) Personally identifiable information concerning some facility owners who file tier II reports is collected pursuant to Iowa Code section 30.12. The information concerns hazardous materials at the facility.

1.23(2) Personally identifiable information concerning employers who requested services from the consultation and education bureau is collected pursuant to Iowa Code chapter 88. The information concerns services provided by the bureau. The record system is confidential.

1.23(3) Personally identifiable information concerning employees who filed discrimination complaints and employers against whom discrimination complaints were filed is collected pursuant to Iowa Code chapter 88. The information relates to the relevant division inspection.

1.23(4) Personally identifiable information concerning employers whose workplaces have been inspected by the IOSH enforcement bureau is collected pursuant to Iowa Code chapter 88. The information relates to the enforcement inspection.

1.23(5) Personally identifiable information concerning work-related fatalities is collected pursuant to Iowa Code section 88.18. The information includes biographical data about the deceased and information concerning the IOSH fatality inspection.

1.23(6) Personally identifiable information concerning owners or operators of amusement devices or rides, concession booths, or related electrical equipment covered by Iowa Code chapter 88A is collected pursuant to that chapter. The information pertains to the division's inspections.

1.23(7) Personally identifiable information concerning asbestos licensees and permittees is collected pursuant to Iowa Code chapter 88B. Biographical information concerning the asbestos licensees and permittees and information concerning the licenses and permits is included.

Personally identifiable information concerning asbestos licensees and permittees against whom disciplinary action has been taken or attempted is collected pursuant to Iowa Code chapter 88B. The disciplinary action files are stored on paper and contain information concerning division investigations, reprimands, suspensions, revocations, denials, and related litigation.

1.23(8) Personally identifiable information concerning boiler special inspectors against whom disciplinary action has been taken or attempted is collected pursuant to Iowa Code chapter 89. The record system is stored on paper and contains information concerning division investigations, reprimands, suspensions, revocations, denials, and related litigation.

1.23(9) Personally identifiable information concerning special inspectors is collected pursuant to Iowa Code chapters 89 and 89A. The record systems are stored on paper and contain biographical information on special inspectors, information on their commissions, and, when applicable, certificates of insurance.

1.23(10) Personally identifiable information concerning owners and operators of facilities and objects covered by Iowa Code chapters 89 and 89A is collected pursuant to those chapters. The information concerns division regulation of covered objects and facilities.

1.23(11) Personally identifiable information concerning individuals who are certified to perform safety tests or are recognized elevator companies is collected pursuant to Iowa Code chapter 89A. The information is maintained on paper and includes biographical data and information on the certification or recognition.

1.23(12) Personally identifiable information concerning registered boxers is collected pursuant to Iowa Code chapter 90A. The information includes biographical data and information pertaining to the registration.

1.23(13) Personally identifiable information concerning division employees and former employees is collected pursuant to Iowa Code chapter 91. The information is stored on paper and includes biographical data, medical records, qualifications, and tax information. The record system is confidential.

1.23(14) Personally identifiable information concerning wage claimants, wage discrimination complainants and individual employers against whom wage claims or wage discrimination complaints have been filed is collected pursuant to Iowa Code chapter 91A. The information includes biographical data and information on the division's investigations.

1.23(15) Personally identifiable information concerning owners, partners, and officers of construction contractor applicants is collected pursuant to Iowa Code chapter 91C. The information includes biographical data and information about the registration.

Personally identifiable information concerning individual out-of-state contractors who have filed bonds is collected pursuant to Iowa Code chapter 91C. The information is stored on paper and relates to the bonds. The record system is open.

Personally identifiable information concerning individuals who have been cited under Iowa Code chapter 91C is collected pursuant to that chapter. The information includes biographical data and information concerning the citations and relevant litigation.

1.23(16) Personally identifiable information concerning private employment agency licensees is collected pursuant to Iowa Code chapter 95. The information includes biographical data and information about the private employment agency license.

875—1.24 to 1.26 Reserved.

DIVISION IV
DECLARATORY RULINGS

875—1.27(17A) Form for petition. Any person or agency may file a petition with the division for a declaratory ruling concerning the applicability of any statute, rule, policy, decision, or order, administered by the agency, at the office of the division. A petition is deemed filed when it is received by the commissioner. The division will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the division an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DIVISION OF LABOR SERVICES

Petition by (Name of Petitioner)	:	
	:	PETITION FOR
for a Declaratory Ruling on	:	
	:	DECLARATORY RULING
(Cite provision of law involved).	:	

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the ruling is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioners want answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory ruling and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.

8. Any request by petitioner for a meeting provided for by 875—1.30(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. The petition must also include the name, mailing address, and telephone number of the petitioner or petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

875—1.28(17A) Briefs. The petitioner may attach a brief to the petition in support of the position urged in the petition. The division may request a brief from the petitioner or from any other person concerning the questions raised in the petition.

875—1.29(17A) Inquiries. Inquiries concerning the status of a petition for a declaratory ruling may be made to deputy labor commissioner at the division.

875—1.30(17A) Division consideration. Upon request by petitioner in the petition, the division will schedule a brief and informal meeting between the petitioner and the commissioner or a member of the staff of the division, to discuss the petition. The division may request the petitioner to submit additional information or argument concerning the petition. The division may solicit comments from any person on the questions presented in the petition. Also, comments on those questions may be submitted to the division by any person.

Within 30 days after the filing of the petition, or within any longer period agreed to by the petitioner, the division will, in writing, issue a ruling on the petition or refuse to do so. The division is deemed to have issued a ruling or to have refused to do so on the date the ruling or refusal is mailed or delivered to the petitioner.

875—1.31(17A) Refusal to issue ruling. The division may refuse to issue a declaratory ruling for good cause. Good cause includes, but is not limited to, the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the division to issue a ruling.
3. The division does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.
7. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory ruling that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

10. The petitioner requests the division to determine whether a statute is unconstitutional on its face.

A refusal to issue a declaratory ruling will indicate the specific grounds for the refusal and constitutes a final agency action on the petition.

Refusal to issue a declaratory ruling pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the division's refusal to issue a ruling.

875—1.32(17A) Contents of declaratory ruling—effective date. In addition to the ruling itself, a declaratory ruling will contain the date of its issuance, the name of the petitioner, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory ruling is effective on the date of issuance.

875—1.33(17A) Effect of a declaratory ruling. A declaratory ruling is binding on the division and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory ruling serves only as precedent and is not binding on the division. The issuance of a declaratory ruling constitutes final agency action on the petition.

875—1.34 to 1.65 Reserved.

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